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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,521	12/08/2003	Brian Frost	6600-0012-2	2985

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EXAMINER
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MENDIRATTA, VISHU K

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/730,521	<b>Applicant(s)</b> FROST ET AL.	
	<b>Examiner</b> Vishu K Mendiratta	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2004.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-13 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-5 and 7-13 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Terminal Disclaimer***

1. The terminal disclaimer filed on 11/4/04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6659866 has been reviewed and is accepted. The terminal disclaimer has been recorded.

2. Claims 1-4,9-10 rejected under 35 U.S.C. 102(b) as being anticipated by Franchi (5,770,533).

Franchi teaches a gaming table (Fig.14), a game outcome determining device (dice rolled in craps game) which is not a card game, the dice being manually operated (16:61-66) and dice landing on the table, a processor (16:56-59), player console (1401) and dealer console (1402), winnings and losses being directly credited to the player directly (2:55-67). Franchi teaches using roulette, big wheel for such games (3:43-45). Applicant's limitations such as "device exclusive of card game", "for a game based upon at least one direct physical interaction", "said direct physical interaction affecting" in claims are intended use of the device and do not further limit the apparatus in the claim. Also "at least one physical interaction" can be broadly and reasonably interpreted as pressing a button to start the automation, where "pressing a button" would be a direct physical interaction to determine the outcome.

Franchi further teaches receiving a player selection on a console (1401) which are exclusively on the table (Fig.14), determining an outcome by a direct physical

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interaction (rolling of dice 16:61-65), crediting proceeds directly to players at their consoles (2:55-67).

Applicant may note that the manual operation of the random outcome determining device by the dealer does not further add any limitation to the apparatus in the claim.

Rolling by a dealer or by a player depends on the method of playing and does not change the apparatus. Entering the outcome of the roll in dealer console clearly demonstrates a manual device.

### **Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5,7-8,11-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Franchi in view of Webb (6336633).

Franchi teaches a gaming table (Fig.14), a game outcome determining device (dice rolled in craps game) which is not a card game, the dice being manually operated (16:61-66) and dice landing on the table, a processor (16:56-59), player console (1401) and dealer console (1402), winnings and losses being directly credited to the player directly (2:55-67). Franchi teaches using roulette, big wheel for such games (3:43-45). Franchi further teaches receiving a player selection on a console (1401) that are exclusively on the table (Fig.14), determining an outcome by a direct physical

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interaction (rolling of dice 16:61-65), crediting proceeds directly to players at their consoles (2:55-67).

Franchi teaches all limitations except that it does not expressly indicate a dealer rolling dice.

Webb teaches a method of playing a Craps game wherein a dealer shoots the dice (3:20-26).

Whereas allowing players to conduct a casino game is likely to interrupt the game and take more time as opposed to a dealer conducting the game. For a gaming house to be profitable, it is essential that the operation goes uninterrupted. One of ordinary skill in art at the time the invention was made would have suggested a dealer operating the random device manually as opposed to players operating the device.

### ***Response to Arguments***

5. Applicant's arguments filed 11/4/04 have been fully considered but they are not persuasive.

With respect to apparatus claims 1-4,9-10, applicant may note that the manual operation of the random outcome-determining device by the dealer does not further add any limitation to the apparatus in the claim. Rolling by a dealer or by a player depends on the method of playing and does not change the apparatus. Entering the outcome of the roll in dealer console clearly demonstrates a manual device.

6. Applicant's arguments with respect to claims 5,7-8,11-13 have been considered but are moot in view of the new ground(s) of rejection.

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7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711

VKM  
December 27, 2004